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RESPONSE TO NON-FINAL OFFICE ACTION

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II. AMENDMENT OF THE CLAIMS

- **Format of this Response**

This response is submitted in compliance with the revised format for making amendments to the specification, claims and drawings officially adopted by the USPTO on July 30, 2003, and which is now reflected in 37 C.F.R. §1.121.

If a substitute specification is submitted herein, a clean form and marked-up version are included. Amendments to drawings, if any, are submitted in compliance with 37 C.F.R. §1.84 on replacement sheets as an attachment to this document (with an accompanying detailed explanation of all of the changes with respect to the drawings made in the remarks section of this amendment.

- **Status of Claims and Terminal Disclaimer:**

Amendments of the claims 1 and 2 is made herein. Claims 1-2 are submitted for reexamination and reconsideration.

- **Statement with Respect to Scope of Amended and Non-Amended Claims**

Revisions to the claim set is made in order to streamline prosecution of this case in order to obtain early allowance of embodiments that are presently anticipated to be of commercial significance and in response to the Examiner's restriction requirement which has been made final in the Office Action, and are not made for a purpose of patentability. Any amendment, cancellation, withdrawal or addition made herein with respect to the claims should not be construed in any manner as indicating Applicant's surrender of any subject matter of the application, or surrender of any equivalent to any element asserted in one or more claims. Any narrowing which may be evinced with respect to subject matter covered by the claims as a whole, or by one or more claims of the appended claims whether amended, re-represented, or new, when compared to claims previously in the application, should not be interpreted as indicating that the Applicant has generally disclaimed the territory between the original claimed subject matter and the amended claimed subject matter. Amended claims elements are to be

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construed to include substantial equivalents known to those of ordinary skill in the art. Applicant asserts that any amendments transacted herein are made without prejudice and reserve all rights to prosecute any canceled claims, and claim structures preceding any amendment to a particular claim, and other disclosed (but not presently claimed) embodiments in the application, in future continuation applications, divisional applications, continuation-in-part applications, continuing prosecution applications, requests for continuing examination, re-examination applications and any other application claiming priority to the present application.

**COMPLETE LIST OF CLAIMS THAT ARE OR HAVE BEEN BEFORE THE OFFICE
AFTER ENTRANCE OF THE AMENDMENTS MADE HEREIN**

In accord with such regulation, the listing of claims set forth below replaces all prior versions, and listings, of claims in the application:

**--CLAIMS AS PENDING IN THE APPLICATION WITH AMENDMENTS MADE HEREIN
START ON NEXT PAGE--**

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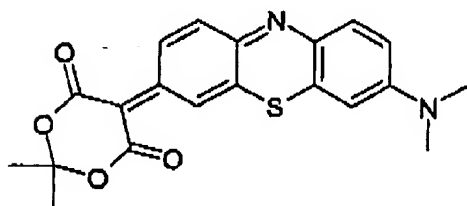
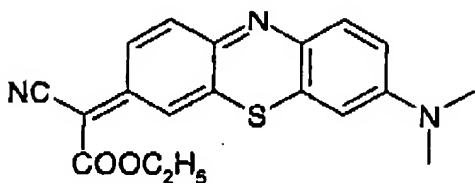
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1. (CANCELED)

2. (CURRENTLY AMENDED) The copy-protected optical disk compound of claim 3 [[1]] wherein the thiazine compound is associated with an optical data deformation in a manner such that the read of the optical data deformation is different when the compound is in its initial optical state and its second optical state.

3. (NEW) The copy protected optical disk wherein the embedded or applied thiazine compound capable of transient optical phase push-pull change is selected from the structural formulae:

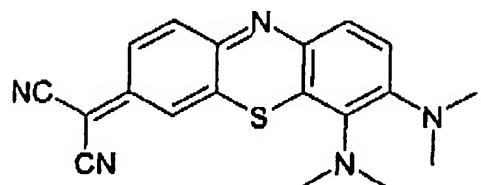
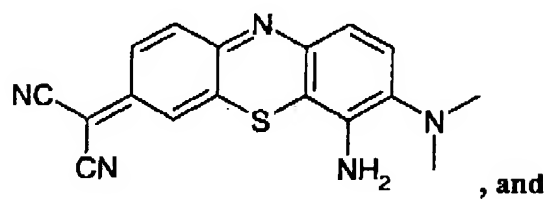
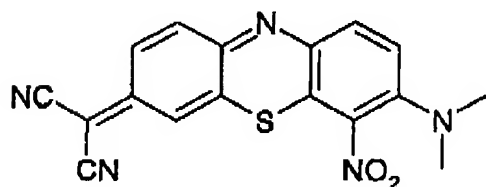
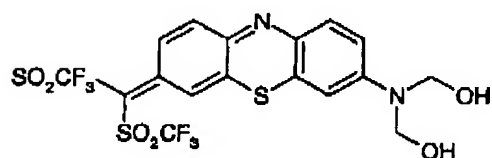
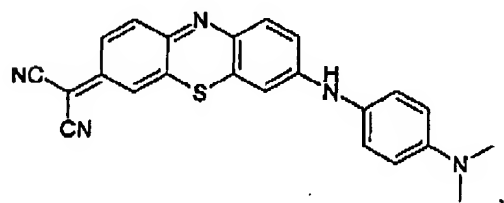
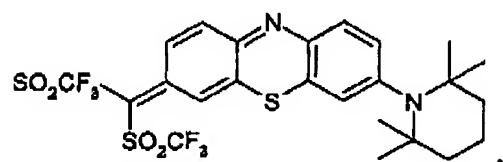
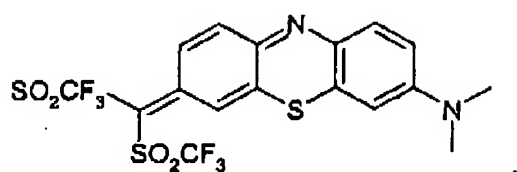


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wherein said compound is applied to said optical disk and detectable on said optical disk by an optical reader producing a defined wavelength of from about 770 nm to about 830 nm by a transient change in optical state from an initial optical state to a second optical state.

4. (NEW) The copy-protected optical disk wherein the thiazine compound capable of transient optical phase changes comprises:

Phenothiazine-5-ium Tetraiodide Hydrate

5. (NEW) The copy-protected optical disk wherein the compound capable of transient optical phase changes comprises:

3-(Dimethylamino)phenothiazine-5-ium Triiodide

6. (NEW) The copy-protected optical disk wherein the thiazine compound capable of transient optical phase changes comprises:

[7-(Dimethylamino)phenothiazine-3-ylidene]methane-1,1-dicarbonitrile